

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

UNITED STATES OF AMERICA, )  
 )  
 )  
 ) CRIMINAL ACTION NO.  
 ) 2:16cr34  
v. )  
 )  
 )  
QUINN A. GOFFIGAN, )  
 )  
 )  
Defendant. )  
 )

TRANSCRIPT OF PROCEEDINGS

Norfolk, Virginia

February 26, 2016

BEFORE: THE HONORABLE LAWRENCE R. LEONARD  
United States Magistrate Judge

## APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE  
By: Kevin Hudson  
Assistant United States Attorney  
Counsel for the United States

FEDERAL PUBLIC DEFENDER'S OFFICE  
By: Suzanne Katchmar  
Assistant Federal Public Defender  
Counsel for the Defendant

1 (Hearing commenced at 10:12 a.m.) 09:46:2

2 THE CLERK: United States of America versus Quinn A. 09:47:3

3 Goffigan, case number 2:16mj82. 09:47:4

4 Are counsel ready to proceed? 09:47:4

5 MR. HUDSON: Yes, ma'am. The Government is ready. 09:47:4

6 Good morning, Your Honor. 09:47:5

7 THE COURT: Good morning, Mr. Hudson. 09:47:5

8 MS. KATCHMAR: Good morning, Your Honor. Suzanne 09:47:5

9 Katchmar appearing with Mr. Goffigan. We are prepared to 09:47:5

10 proceed on both matters today. 09:48:0

11 THE COURT: All right. Good morning, Ms. Katchmar. 09:48:0

12 I haven't seen you in awhile. You've been busy in other 09:48:0

13 people's courtrooms, I guess. 09:48:1

14 MS. KATCHMAR: That is, but I'm happy to be here. 09:48:1

15 THE COURT: Good. Well, we're here for a 09:48:2

16 preliminary hearing and a detention hearing in the matter of 09:48:2

17 United States versus Quinn Goffigan. So let's start with the 09:48:2

18 preliminary hearing. Ms. Katchmar, your client's ready to go 09:48:2

19 forward. 09:48:3

20 Mr. Hudson, let me hear from you. 09:48:3

21 MR. HUDSON: Yes, sir. And the Government would 09:48:3

22 call Task Force Officer James Thomas to the stand. 09:48:3

23 THE COURT: All right. Agent Thomas, if you'd come 09:48:5

24 forward, please. 09:48:5

25 MS. KATCHMAR: Your Honor, may we have a moment? We 09:49:0

1 are having some technical difficulties here. 09:49:0

2 THE COURT: All right. 09:49:1

3 MS. KATCHMAR: All good. Thank you so much. 09:49:2

4 (Witness was sworn.) 09:49:3

5 JAMES A. THOMAS, called by the Government, having 09:49:3

6 been first duly sworn, was examined and testified as follows: 09:49:3

7 DIRECT EXAMINATION 09:49:3

8 BY MR. HUDSON: 09:49:3

9 Q. Good morning, sir. Will you tell us your name, please. 09:50:0

10 A. Good morning, Your Honor. James Thomas. I am a 09:50:1

11 detective with the City of Virginia Beach Special 09:50:2

12 Investigations Narcotics, also assigned to the DEA drug 09:50:2

13 narcotic task force in Norfolk, Virginia. 09:50:2

14 Q. How long have you been on the DEA task force, sir? 09:50:3

15 A. I've been working with the DEA task force for 09:50:3

16 approximately 11 to 12 years now. I've been on Virginia 09:50:3

17 Beach Police Department going on 26 years. I've been in 09:50:4

18 special investigation, run narcotic investigations, both 09:50:4

19 federal and state, for approximately 22 years now. 09:50:5

20 Q. And are you the primary task force officer assigned to 09:51:0

21 this case? 09:51:1

22 A. Yes, I am. 09:51:1

23 Q. Sir, let me direct your attention to February the 17th of 09:51:1

24 2014. Did there come a time that day that you swore out a 09:51:2

25 complaint, an affidavit against a Quinn Goffigan? 09:51:2

1	A. Yes, I did.	09:51:3
2	Q. And, sir, do you see Mr. Goffigan in the courtroom today?	09:51:3
3	A. I sure do. He is sitting to the left of Ms. Suzanne	09:51:3
4	Katchmar in the orange jumpsuit.	09:51:4
5	Q. And did you prepare an affidavit in connection with this	09:51:4
6	case?	09:51:5
7	A. Yes, I did.	09:51:5
8	Q. Okay. Sir, let me show you what I've marked as	09:51:5
9	Government's Exhibit Number 1.	09:51:5
10	MS. KATCHMAR: I've previously seen it, Your Honor.	09:52:0
11	I have no objection.	09:52:0
12	THE COURT: All right. Thank you, Ms. Katchmar.	09:52:0
13	MS. KATCHMAR: Not to the content and the veracity	09:52:1
14	of it but simply that is the affidavit.	09:52:1
15	THE COURT: I understand.	09:52:1
16	BY MR. HUDSON:	09:52:1
17	Q. And, sir, do you recognize Government's 1?	09:52:1
18	A. Yes, sir, I do. It has my initials on each page and	09:52:2
19	signature on the back page.	09:52:2
20	Q. Is this the affidavit you swore out on February 17th?	09:52:2
21	A. Yes, it is.	09:52:3
22	Q. Okay. Does it contain everything you know about this	09:52:3
23	defendant's case?	09:52:3
24	A. No, it doesn't.	09:52:3
25	Q. Is it a fair and accurate copy of that affidavit?	09:52:4

1 A. Yes, it is. 09:52:5

2 MR. HUDSON: Okay. And I'll ask the Court to 09:52:5

3 receive that now as Government's Exhibit Number 1. 09:52:5

4 THE COURT: All right. Any objection? 09:53:0

5 MS. KATCHMAR: I do, Your Honor. I simply have one 09:53:0

6 question related to the information contained therein. 09:53:0

7 THE COURT: All right. Go ahead. You may ask. 09:53:1

8 MS. KATCHMAR: May I stand at table? 09:53:1

9 THE COURT: You can do it from there. That's fine. 09:53:1

10 MS. KATCHMAR: Thank you. I would simply ask, 09:53:2

11 Detective Thomas, do you have personal knowledge and not 09:53:2

12 hearsay knowledge of the information contained in that 09:53:3

13 affidavit? 09:53:3

14 THE WITNESS: The knowledge that I have that from 09:53:4

15 that came from police reports, Virginia Beach police reports 09:54:0

16 that I personally have read. 09:54:0

17 MS. KATCHMAR: So not your personal knowledge? 09:54:1

18 THE WITNESS: That I personally read the Virginia 09:54:1

19 Beach police reports. 09:54:2

20 MS. KATCHMAR: But the facts contained in the 09:54:2

21 reports you do not have any personal knowledge? 09:54:2

22 THE WITNESS: If you're asking was I there, I was 09:54:3

23 not there. 10:04:2

24 MS. KATCHMAR: Your Honor, I would object as there 10:04:2

25 is -- the witness would not be able to testify as to the 10:04:2

1 veracity and the information contained in those reports, and 10:04:2  
2 it is all based on hearsay, and therefore we would object. 10:04:3  
3 THE COURT: All right. Overruled. Thank you. 10:04:3  
4 (The document was received in evidence as 10:04:3  
5 Government's Exhibit No. 1.) 10:04:3  
6 BY MR. HUDSON: 10:04:3  
7 Q. And, Detective Thomas, the basis for your knowledge, is 10:04:3  
8 that set out in the affidavit? 10:04:4  
9 A. Yes, it is. 10:04:4  
10 Q. And, sir, I want to direct your attention to various 10:05:0  
11 portions of the affidavit, specifically -- 10:05:0  
12 THE COURT: Hold on. 10:05:1  
13 MR. HUDSON: I'm sorry, sir. 10:05:1  
14 THE COURT: I have a copy, so that's fine. 10:05:1  
15 MR. HUDSON: Thank you, sir. 10:05:3  
16 THE WITNESS: Thank you. 10:05:4  
17 BY MR. HUDSON: 10:05:4  
18 Q. Detective, I'd like to direct your attention to Paragraph 10:05:4  
19 4 in the affidavit, specifically the testing done by the 10:05:4  
20 state laboratory. Do you have an update on that testing for 10:05:5  
21 us today? 10:05:5  
22 A. Yes, sir. 10:05:5  
23 Q. Okay. And what is that? 10:07:2  
24 A. The narcotics that was seized from this date was sent 10:07:2  
25 back to the state lab and asked them to perform a base 10:07:4

1 analysis test. And the report shows that the substance 10:07:5  
2 seized did contain crack cocaine or base cocaine, cocaine 10:07:5  
3 base. 10:08:0

4 Q. Now, sir, let me show you what I've marked as 10:08:0  
5 Government's Exhibit Number 2. 10:08:1

6 I apologize, sir. Let me show you now what I've 10:08:3  
7 marked as Government's Exhibit Number 2. Sir, do you 10:08:3

8 recognize that? 10:08:4

9 A. Yes, I do. 10:08:4

10 Q. What is it? 10:08:4

11 A. It is the supplemental report for the substance that was 10:08:4  
12 seized in February of 2014 that was sent back to the lab. 10:08:5

13 Q. And is that the base analysis report you were just 10:09:0  
14 referring to? 10:09:0

15 A. Yes, it is. 10:09:0

16 MR. HUDSON: Okay. And I'd offer this now as 10:09:0  
17 Government's Exhibit 2. 10:09:1

18 THE COURT: All right. Any objection? 10:09:1

19 MS. KATCHMAR: Your Honor, we do object. We object 10:09:1  
20 based upon the following: The fact that it is supplemental, 10:09:1  
21 the basis for the information contained therein is based upon 10:09:2  
22 information not to the personal knowledge of this witness, 10:09:2  
23 and, in fact, the chain of custody has not been thereby 10:09:3  
24 established for the information contained in the report. 10:09:3

25 THE COURT: All right. Overruled. You know, this 10:09:4

1 is a preliminary hearing? 10:09:4

2 MS. KATCHMAR: I do, Your Honor. However, I do 10:09:4

3 believe that some of this information is going to be before 10:09:4

4 the Court put in fact. I understand the rules of evidence 10:09:5

5 are very loose pursuant to Rule 1101. However, I am trying 10:10:0

6 to establish a basis for my objection. 10:10:1

7 THE COURT: All right. Very well. Overruled. 10:10:1

8 (The document was received in evidence as 10:10:1

9 Government's Exhibit No. 2.) 10:10:1

10 BY MR. HUDSON: 10:10:1

11 Q. And, sir, still keeping your attention on Paragraph 4 of 10:10:2

12 the affidavit, certain phones are mentioned in Paragraph 4. 10:10:2

13 Was a search warrant executed on those two cell phones? 10:10:3

14 A. Yes, sir. 10:10:3

15 Q. Okay. Was that a state search warrant? 10:10:3

16 A. Yes, it was. 10:10:4

17 Q. Okay. Now, are you able to summarize for the Court what 10:10:4

18 was found in those phones? 10:10:4

19 A. Absolutely. 10:10:5

20 Q. Okay. Would you please just give the Court a brief 10:10:5

21 summary of some of the highlights from those two cell phones. 10:10:5

22 A. In viewing the report from the cell phones, the contents 10:10:5

23 of the cell phone, it contained phone numbers of an 10:11:0

24 individual actually that I spoke with that provided 10:11:0

25 additional information about Mr. Goffigan's drug trafficking 10:11:1

1 activities. It contained pictures of Mr. Goffigan himself. 10:11:1  
2 It contained pictures of large sums of cash that were spread 10:11:2  
3 out. It contained a picture of a number of large sum of 10:11:2  
4 cash, and also had a firearm, a black handgun with it with an 10:11:4  
5 extended clip, and it ex -- it also had a few text messages 10:11:4  
6 on there that, based on my experience as a narcotics 10:11:5  
7 detective for 22 years, I viewed them as being drug related. 10:11:5  
8 Q. Can you explain that a little bit to the Court so we know 10:12:0  
9 what you're talking about. 10:12:0  
10 A. In particular there was a person that was looking to get 10:12:0  
11 what he called a zone, and he was having a difficult time 10:12:1  
12 with meeting up with Mr. Goffigan to get that zone, and he 10:12:2  
13 talked about, you're making me look bad. I've had these 10:12:3  
14 people waiting, you know, just trying to get a zone. 10:12:4  
15 Q. And -- 10:12:5  
16 A. Also, there was a photograph of a maroon-colored Lexus, 10:12:5  
17 which was the same vehicle that Mr. Goffigan was with when he 10:13:0  
18 was encountered in February of 2014. 10:13:0  
19 Q. And I don't know if you mentioned but based on your 10:13:1  
20 training and experience, what is a zone? 10:13:1  
21 A. I'm sorry. It's an ounce. I've known it to be an ounce 10:13:1  
22 of a controlled substance, whether it's crack or powder 10:13:2  
23 cocaine or heroin, but a zone is generally referred to as an 10:13:2  
24 ounce. 10:13:3  
25 Q. And, sir, let me direct your attention now to Paragraph 10:13:3

1 number 5 in this affidavit and specifically the testing by 10:13:3  
2 the Department of Forensic Science referenced in Paragraph 5. 10:13:4  
3 Do you have an update on the forensic science testing of the 10:13:5  
4 substance that's referenced in Paragraph 5 of your affidavit? 10:13:5  
5 A. Yes, I do. 10:13:5  
6 Q. Okay. And what is that? 10:14:0  
7 A. The -- again, the drugs were sent back to the state lab 10:14:0  
8 and requested that a base analysis be performed, and the 10:14:1  
9 report came back and showed that it was crack cocaine or base 10:14:1  
10 cocaine, cocaine base. 10:14:2  
11 Q. Sir, let me show you what I've marked as Government's 10:14:2  
12 Exhibit Number 3. 10:14:2  
13 THE COURT: Have you been provided a copy, 10:14:3  
14 Ms. Katchmar? 10:14:3  
15 MS. KATCHMAR: I have, Your Honor. Thank you. 10:14:3  
16 BY MR. HUDSON: 10:14:4  
17 Q. Well, sir, do you recognize that? 10:14:4  
18 A. Yes, I do. 10:14:4  
19 Q. What is it? 10:14:4  
20 A. It is the supplemental report received from the lab that 10:14:4  
21 shows the substance seized in August of 2015 as being cocaine 10:14:5  
22 base. 10:14:5  
23 Q. Is it a fair and accurate copy of that certificate? 10:14:5  
24 A. Yes, it is. 10:15:0  
25 MR. HUDSON: I'd ask the Court to receive that now 10:15:0

1 as Government's Exhibit Number 3. 10:15:0

2 THE COURT: All right. Objection, Ms. Katchmar? 10:15:0

3 MS. KATCHMAR: Your Honor, I would just maintain my 10:15:1  
4 prior objection. 10:15:2

5 THE COURT: All right. So noted. Overruled. 10:15:2

6 (The document was received in evidence as 10:15:2  
7 Government's Exhibit No. 3.) 10:15:3

8 MR. HUDSON: And, Your Honor, at this point I have 10:15:3  
9 one of two things I could do. I could ask the detective to 10:15:3  
10 provide a little more information that would be germane to 10:15:4  
11 detention only, or I can stop now and proffer additional 10:15:4  
12 information. I'm comfortable doing either, whichever the 10:15:5  
13 Court and whichever counsel feels is the most appropriate 10:15:5  
14 course of action. 10:16:0

15 THE COURT: Well, let's complete the testimony of 10:16:0  
16 Agent Thomas. All right. 10:16:0

17 MR. HUDSON: Yes, sir. 10:16:1

18 THE COURT: So go ahead with whatever examination 10:16:1  
19 you wish on the issue of detention, and I'll consider them as 10:16:1  
20 appropriate. 10:16:2

21 MR. HUDSON: Thank you, sir. 10:16:2

22 BY MR. HUDSON:

23 Q. Detective, I want to direct your attention to one of the 10:16:3  
24 cooperating witnesses in this case who is -- did you talk to 10:16:3  
25 a cooperating witness in this case? 10:16:4

1	A. Yes, I did.	10:16:4
2	Q. Okay. And did the cooperating witness indicate whether	10:16:4
3	or not he knew the defendant?	10:16:5
4	A. Yes, he did.	10:16:5
5	Q. Okay. Did he say that he did?	10:16:5
6	A. Yes, he did. He said he did know him.	10:17:0
7	Q. Okay. And if you could please describe for the Court	10:17:0
8	whether or not the witness knew anything about the	10:17:0
9	defendant's drug trafficking activities?	10:17:1
10	A. Yes, he did.	10:17:1
11	MS. KATCHMAR: Objection, overbroad.	10:17:1
12	THE COURT: Try to narrow it down a little bit,	10:17:1
13	Mr. Hudson.	10:17:2
14	MR. HUDSON: Yes, sir.	10:17:2
15	BY MR. HUDSON:	10:17:2
16	Q. Sir, did the -- when did this witness indicate that he	10:17:2
17	first knew the defendant to be involved in drug trafficking?	10:17:2
18	A. In approximately June/July of 2012.	10:17:3
19	Q. And what was the nature of it at that time?	10:17:3
20	A. The witness himself acknowledged that he was a crack	10:17:4
21	cocaine user, and that he was introduced to Mr. Goffigan	10:17:5
22	under the terms of purchasing crack cocaine from him.	10:17:5
23	Q. Did this witness ever become more than a user?	10:18:0
24	A. Yes, he did.	10:18:1
25	Q. Okay. Can you give us a little bit of the evolution to	10:18:1

1 that with respect to this defendant? 10:18:1

2 A. The witness had, over the course of time of dealing with 10:18:2

3 Mr. Goffigan, who he also referred to as Kayla, that he 10:18:2

4 purchased crack cocaine from him almost on a daily basis and 10:18:4

5 it eventually involved to several times a day, and that at 10:18:5

6 some point in time that the relationship evolved into around 10:19:2

7 more trust, and he was allowed to see more of what 10:19:2

8 Mr. Goffigan was doing. 10:19:3

9 Mr. Goffigan called him and relied on him for rides. 10:19:3

10 Mr. Goffigan gave him large sums of money in the amounts of 10:19:3

11 approximately \$35,000 to hold for him. Mr. Goffigan borrowed 10:19:4

12 money from him in sums of ten thousands of dollars, and he's 10:19:5

13 also seen Mr. Goffigan cooking crack cocaine on numerous 10:20:0

14 occasions. He mentioned in the sense where he saw 10:20:0

15 Mr. Goffigan in possession of two kilograms of crack cocaine 10:20:1

16 on Mellon Drive in Norfolk, Virginia at Mr. Goffigan's 10:20:1

17 girlfriend, Tracy's house, and that he was removing two to 10:20:4

18 three ounces of crack cocaine from one kilo and cooking it on 10:20:5

19 the stove, and the other kilogram was left packaged. 10:20:5

20 Q. And, sir, to clear up, did this witness eventually start 10:21:0

21 helping this defendant sell crack cocaine? 10:21:0

22 A. The witness, yes, he did. He was beginning to make 10:21:1

23 deliveries for Mr. Goffigan, locations, he named locations to 10:21:1

24 the Scarborough Square in Virginia Beach, Virginia, and an 10:21:2

25 address on Kensington Drive in Virginia Beach, Virginia; 10:21:3

1	Calvin (ph.) Estates out in Chesapeake, Virginia, off of	10:21:4
2	Cedar Road, and several other locations that he mentioned.	10:21:5
3	Q. And in doing so did this witness indicate about how much	10:21:5
4	he was making on any given weekend?	10:22:1
5	A. Well, the defendant -- the witness himself wasn't making	10:22:1
6	any money, but he was turning money over to Mr. Goffigan.	10:22:1
7	And he said at times that he had made as much as \$5,000 from	10:22:2
8	a Friday to a Sunday, and as much as \$1500 on a day making	10:22:2
9	deliveries for Mr. Goffigan.	10:22:3
10	Q. Did this witness mention any guns as to Mr. Goffigan?	10:22:3
11	A. The witness said on occasions he seen Mr. Goffigan with a	10:22:3
12	black handgun while he was counting large sums of money or	10:22:5
13	cooking large amounts of crack.	10:22:5
14	Q. Did the witness indicate whether or not this defendant	10:23:0
15	used one location or multiple locations to sell?	10:23:0
16	A. The witness advised that he used multiple locations.	10:23:1
17	Q. And last question, this particular witness, how much --	10:23:2
18	do you have a total or a ballpark total of how much crack	10:23:2
19	cocaine this witness purchased from this defendant?	10:23:3
20	A. Yes, I do.	10:23:3
21	Q. And that is approximately what?	10:23:3
22	A. Well over a kilogram of crack cocaine.	10:23:3
23	MR. HUDSON: All right. Thank you, sir. Please	10:23:5
24	answer any questions that Ms. Katchmar might have for you.	10:23:5
25	THE WITNESS: Thank you.	10:23:5

1 MS. KATCHMAR: Your Honor, may I have one moment, 10:23:5  
2 please? 10:24:0  
3 THE COURT: All right. Go ahead. 10:24:0  
4 MS. KATCHMAR: Thank you. 10:24:1  
5 CROSS-EXAMINATION 10:24:1  
6 BY MS. KATCHMAR: 10:24:1  
7 Q. Good morning again, Detective. 10:24:3  
8 A. Good morning, ma'am. 10:24:3  
9 Q. Talking about the events of 2014 that are referenced in 10:24:3  
10 your complaint, I believe Paragraphs 3 and 4; is that 10:24:4  
11 correct? Do you have it in front of you? 10:24:4  
12 A. Yes and no. 10:24:4  
13 Q. I want to talk to you about the eventual contact and 10:24:4  
14 identification of some items, if we could. 10:24:5  
15 A. Sure. 10:25:0  
16 Q. First, you have in front of you a supplemental report of 10:25:0  
17 some drugs that were recovered at the scene; is that correct? 10:25:0  
18 A. I don't have it in front of me but I did view it, yes, 10:25:0  
19 ma'am. 10:25:2  
20 Q. All right. 10:25:2  
21 THE COURT: Would you like the witness to have it? 10:25:2  
22 MS. KATCHMAR: No, Your Honor. I know that he sees 10:25:2  
23 it and that was my only reference to it. Thank you so much. 10:25:3  
24 BY MS. KATCHMAR: 10:25:3  
25 Q. So, Detective Thomas, you were not present at the events 10:25:3

1 of February 2014? 10:25:4

2 A. No, ma'am, I was not. 10:25:4

3 Q. You did not see and experience what is referenced in the 10:25:4

4 police reports from February of 2014? 10:25:4

5 A. No, I did not. 10:25:5

6 Q. And I'm specifically talking about the events identified 10:25:5

7 in Paragraphs 3 and 4, February 19, 2014? 10:25:5

8 A. That's a no. 10:25:5

9 Q. Okay. Regarding those items, you know that there was a 10:26:0

10 seizure of drugs that were alleged to have been dropped, 10:26:1

11 correct? 10:26:3

12 A. Actually, what I know is from -- again, from the Virginia 10:26:3

13 Beach police reports and information that I also know from 10:26:4

14 talking with the cooperating witness, what I know is that 10:26:4

15 there were drugs found in a red or maroon-colored Lexus, 10:26:5

16 which is a picture on the phone that was recovered that was 10:27:0

17 dropped by Mr. Goffigan. 10:27:1

18 Q. Okay. 10:27:1

19 A. And that there was another quantity, an ounce of powder 10:27:1

20 cocaine that was thrown by a pool fence that the cooperating 10:27:1

21 witness went back the next day, at the direction of 10:27:2

22 Mr. Goffigan, went and got. 10:27:2

23 Q. Okay. That wasn't my question. I said on the day, there 10:27:3

24 is an allegation that a person ran and dropped some cell 10:27:4

25 phones, correct? 10:27:4

1	A. On the day --	10:27:4
2	Q. Yes.	10:27:5
3	A. -- the police officer --	10:27:5
4	Q. Yes.	10:27:5
5	A. -- that I know encountered Mr. Goffigan --	10:27:5
6	Q. Yes.	10:27:5
7	A. -- identified him --	10:28:0
8	Q. Yes.	10:28:0
9	A. -- and to arrest him, and Mr. Goffigan took off running,	10:28:1
10	and cell phones were dropped.	10:28:4
11	Q. Okay. There were no drugs dropped seen by the officer?	10:28:4
12	A. There were drugs seen by the officer, what he believed	10:28:5
13	was an exchange prior to approaching him, and then when he	10:29:0
14	approached the car, he saw drugs in plain view in the car,	10:29:1
15	and that's the reason why he went to arrest Mr. Goffigan.	10:29:1
16	Q. During the run there were no drugs seen dropped?	10:29:2
17	A. No.	10:29:2
18	Q. There was no chase near the pool?	10:29:2
19	A. I don't know that. I don't know that he chased him by a	10:29:3
20	pool.	10:29:5
21	Q. Detective Thomas --	10:29:5
22	A. Uh-huh.	10:30:0
23	Q. -- the drugs that you identified or referenced by a	10:30:0
24	cooperating witness that were an ounce found by the pool --	10:30:1
25	A. Yes.	10:30:2

1	Q. -- is information from a source other than a law	10:30:2
2	enforcement agent?	10:30:3
3	A. Correct.	10:30:3
4	Q. Is that the same cooperating witness that Mr. Hudson was	10:30:3
5	just asking you about regarding past use, purchase and sale?	10:30:4
6	A. Yes.	10:30:4
7	Q. Other than regarding Mr. Goffigan, have you had an	10:30:4
8	opportunity to work with this cooperating witness in the	10:30:5
9	past?	10:30:5
10	A. No.	10:30:5
11	Q. Regarding the cell phones, other than a search warrant	10:30:5
12	made on the cell phones, what efforts were made to actually	10:31:0
13	know whether or not they were owned by Mr. Goffigan?	10:31:1
14	A. The officer heard and saw the phones dropped while he was	10:31:1
15	chasing Mr. Goffigan.	10:31:2
16	Q. I didn't ask you about possession, Detective. I said	10:31:2
17	ownership. What other efforts were made to determine whether	10:31:3
18	or not these were, in fact, owned?	10:31:4
19	A. To my knowledge, there are no other efforts that could be	10:31:4
20	made until a search warrant is executed and then subpoenas	10:31:5
21	for the phone records are done, and then in those cases the	10:32:0
22	phones still may not come back to that person because many	10:32:1
23	times narcotics -- narcotic dealers don't register things in	10:32:1
24	their own name.	10:32:2
25	Q. So you don't know?	10:32:2

1	A. No.	10:32:2
2	Q. In terms of the cooperating witness in this case that	10:32:3
3	Mr. Hudson was just talking about, it references back to a	10:32:4
4	date, I think it was 2012?	10:32:4
5	A. Beginning in 2012, July/June of 2012.	10:32:5
6	Q. Okay. All in Virginia Beach?	10:32:5
7	A. Virginia Beach, Chesapeake.	10:32:5
8	Q. And have there been any seizure or review of bank records	10:33:0
9	regarding Mr. Goffigan?	10:33:0
10	A. Not yet.	10:33:0
11	Q. Is that the intent of your investigation?	10:33:1
12	A. It may be a part of my investigation.	10:33:1
13	Q. Does this cooperating witness have his own felony	10:33:1
14	criminal history?	10:33:2
15	A. Yes.	10:33:2
16	Q. And a substantial drug habit?	10:33:2
17	A. Yes.	10:33:3
18	Q. And some of the information, at least to date, you have	10:33:3
19	been unable to corroborate, correct?	10:33:3
20	A. I've been able to corroborate a lot more than I've been	10:33:3
21	able to not corroborate.	10:33:4
22	Q. High amounts of money, you have not been able to	10:33:4
23	corroborate that?	10:33:5
24	A. I haven't been able to corroborate it, but with the	10:33:5
25	pictures that I've seen on the cell phone with Mr. Goffigan's	10:34:1

1 face on them, there are closed sales amounts or could it be. 10:34:1

2 Q. You did not check the dates to determine whether or not 10:34:3

3 it was, in fact, related? 10:34:3

4 A. No, I did not. 10:34:3

5 Q. You didn't check to determine whether or not those were 10:34:3

6 pictures superimposed from the Internet? 10:34:4

7 A. No, I did not. 10:34:5

8 Q. You're aware that on the Internet you can just spell and 10:34:5

9 find pictures of anything? 10:35:0

10 A. Absolutely. 10:35:0

11 Q. So at that point it's regarding the amounts and the 10:35:1

12 pictures and as it relates to the confidential -- or 10:35:1

13 cooperating witness, excuse me, I know there's a 10:35:2

14 difference -- there has been no corroboration about the 10:35:3

15 monies? 10:35:3

16 A. Again? 10:35:3

17 Q. Just speculation about the monies and the pictures and 10:35:4

18 the cooperating witness? 10:35:4

19 MR. HUDSON: Your Honor, I'm going to object that 10:35:4

20 this has been asked and answered. I think we have a -- 10:35:5

21 THE COURT: Well, it's not the objection that seems 10:35:5

22 appropriate. Why don't you start over and kind of use 10:36:0

23 phrases. 10:36:0

24 MS. KATCHMAR: I will. 10:36:0

25 THE COURT: So just start over and ask the question. 10:36:1

1	BY MS. KATCHMAR:	10:36:1
2	Q. You have photos on the phone --	10:36:1
3	A. That's correct.	10:36:1
4	Q. -- that you looked at regarding money?	10:36:2
5	A. That's correct.	10:36:2
6	Q. You have a cooperating witness that you've never worked	10:36:2
7	for talking to you about large sums of money?	10:36:2
8	A. That I've ever worked with before?	10:36:3
9	Q. Yes.	10:36:3
10	A. Yes, that's correct.	10:36:3
11	Q. Talking to you about large sums of money?	10:36:4
12	A. Correct.	10:36:4
13	Q. But that those large sums of money may not be those that	10:36:4
14	you've seen on the telephone?	10:36:5
15	A. Correct.	10:36:5
16	Q. And you haven't checked the timing?	10:36:5
17	A. Correct.	10:36:5
18	Q. Or whether or not those photos on the phone are, in fact,	10:36:5
19	real or superimposed?	10:37:0
20	A. Correct.	10:37:0
21	Q. When you talked to this cooperating witness was he in or	10:37:0
22	out of custody?	10:37:1
23	A. In custody.	10:37:1
24	Q. And he has a significant felony criminal history related	10:37:2
25	to drugs?	10:37:2

1	A. No, not related to drugs.	10:37:2
2	Q. Does he have a felony criminal history?	10:37:3
3	A. Yes, he does.	10:37:3
4	Q. State or federal?	10:37:3
5	A. State.	10:37:3
6	Q. Okay. Have you been to any locations in Scarborough or	10:37:5
7	reviewed or had any surveillance there related to his	10:37:5
8	comments?	10:37:5
9	A. I'm not sure what you're asking me. Have I been to those	10:37:5
10	locations and those addresses based on his information?	10:38:0
11	Q. Yes.	10:38:1
12	A. I'm very familiar with those neighborhoods and also	10:38:1
13	familiar with other information that places Mr. Goffigan in	10:38:1
14	those neighborhoods dealing drugs, so when I hear that	10:38:2
15	information from that cooperating witness, it only verifies	10:38:3
16	what I already knew.	10:38:3
17	Q. So the answer is no, based upon the information the	10:38:3
18	cooperating witness gave you, you then did not act, you	10:38:4
19	relied on past information?	10:38:4
20	A. I'm confused with what you're asking me.	10:38:4
21	Q. Simple. The cooperating witness talked to you about --	10:38:4
22	A. Scarborough Square, yes.	10:38:5
23	Q. -- Scarborough Square?	10:39:0
24	A. Yes.	10:39:0
25	Q. And you're familiar with that area?	10:39:0

1	A. Yes.	10:39:0
2	Q. Drug trafficking in that area?	10:39:0
3	A. Yes.	10:39:1
4	Q. But related to the information provided to you by this	10:39:1
5	cooperating witness, you then did not act, you relied on	10:39:1
6	information you previously obtained?	10:39:1
7	A. Yes.	10:39:2
8	Q. From other cooperating witnesses?	10:39:2
9	A. From another cooperating witness, yes.	10:39:3
10	Q. That you had worked with in the past?	10:39:3
11	A. I have not worked with him but a lot of the detectives	10:39:4
12	have.	10:39:4
13	Q. So you have not directly talked with him?	10:39:4
14	A. I have directly talked with him.	10:39:4
15	Q. Based upon what time frame?	10:39:4
16	A. Based upon what time frame?	10:39:5
17	Q. As it relates?	10:39:5
18	A. When did I talk to him or --	10:39:5
19	Q. Yes.	10:40:0
20	A. I talked to him in January 2015.	10:40:0
21	Q. About a year ago?	10:40:0
22	A. No. I'm sorry, January 2016.	10:40:0
23	Q. Okay. About a month ago?	10:40:1
24	A. Yes.	10:40:1
25	Q. Is he a state or federal --	10:40:1

1	A. What?	10:40:1
2	Q. -- individual.	10:40:1
3	A. Neither.	10:40:1
4	Q. Does he have a felony history?	10:40:3
5	A. Yes.	10:40:3
6	Q. History of drug use?	10:40:3
7	A. I don't know.	10:40:3
8	Q. Are you familiar with the places, I think you said Cedar	10:40:4
9	Road that were referenced from Chesapeake?	10:40:4
10	A. I am not familiar myself, no.	10:40:5
11	Q. So you have not acted on the information that your	10:41:0
12	cooperating witness has provided you as it relates to Cedar	10:41:2
13	Road?	10:41:2
14	A. I have another detective or a task force officer who is	10:41:2
15	from Chesapeake with the (Unintelligible) entity, and he was	10:41:4
16	aware of the neighborhood. So, no, I did not act on it.	10:41:4
17	Q. To your knowledge, as you're the primary, did he move to	10:41:4
18	attempt to corroborate or act on it?	10:41:5
19	A. No. No.	10:41:5
20	MS. KATCHMAR: Your Honor, may I have one moment,	10:42:1
21	please?	10:42:2
22	THE COURT: All right.	10:42:2
23	BY MS. KATCHMAR:	10:42:2
24	Q. Your cooperating witness, when did he say the last time	10:42:2
25	he had contact with Mr. Goffigan, the one that we're talking	10:42:3

1	about with Mr. Hudson?	10:42:5
2	A. April 2015.	10:42:5
3	Q. Over a year --	10:43:0
4	A. April 2015.	10:43:0
5	Q. Almost a year ago?	10:43:0
6	A. Yes.	10:43:0
7	Q. And you never said -- he just gave a very basic	10:43:0
8	description of the gun; is that correct?	10:43:1
9	A. That's correct. Black handgun.	10:43:2
10	Q. I'm sorry?	10:43:2
11	A. A black handgun.	10:43:2
12	Q. Pretty general description?	10:43:4
13	A. Yes.	10:43:4
14	Q. Never said that he had been threatened by a gun with	10:43:4
15	Mr. Goffigan?	10:43:5
16	A. No.	10:43:5
17	Q. Okay. Never said that he had been forced to use a gun by	10:43:5
18	Mr. Goffigan?	10:44:0
19	A. No.	10:44:0
20	MS. KATCHMAR: I have no other questions. Thank	10:44:0
21	you.	10:44:0
22	THE WITNESS: All right. Thank you, Ms. Katchmar.	10:44:0
23	Any redirect, Mr. Hudson?	10:44:1
24	MR. HUDSON: A little bit.	10:44:1
25	REDIRECT EXAMINATION	10:44:1

1	BY MR. HUDSON:	10:44:1
2	Q. Detective, during the search warrant of the phones we've	10:44:1
3	been discussing, was there any contact information contained	10:44:1
4	in the phone that would be indicative of it being the	10:44:2
5	defendant's phone?	10:44:3
6	A. Yes.	10:44:3
7	Q. Okay. Will you please briefly describe that for the	10:44:3
8	Court.	10:44:3
9	A. The phone number from that phone was the same phone	10:44:3
10	number that the cooperating witness provided to me. He said	10:44:4
11	that was Mr. Goffigan's phone. There were -- there was a	10:44:4
12	particular text message for an address on Shortleaf Court in	10:45:0
13	Virginia Beach where the cooperating witness said that	10:45:0
14	Mr. Goffigan lived at with a young lady by the name of	10:45:1
15	Ashley, Ashley Haynes, I believe it was, and that was on the	10:45:2
16	phone, as well. I think that's --	10:45:3
17	Q. That's what you can think of off the top of your head?	10:45:4
18	A. That is what I can think of off the top of my head.	10:45:5
19	Q. Directing your attention to the detective that was	10:45:5
20	involved in the February 19th, 2014 incident, was that a beat	10:46:0
21	police or a narcotics detective or a -- what was his	10:46:0
22	specialty, if any?	10:46:1
23	A. He was a uniformed officer. He was a master police	10:46:1
24	officer. He has spent several years in special	10:46:3
25	investigations. I have worked with him for several years and	10:46:4

1	then he went back to uniform for a short stint in time.	10:46:5
2	Q. And --	10:46:5
3	A. He's still back in -- he's back in narcotics again now.	10:47:0
4	Q. Okay. And special investigations, does that cover drug	10:47:0
5	crimes in Virginia Beach?	10:47:1
6	A. Yes, it does.	10:47:1
7	Q. Okay. Do you have a ballpark for how long he's been with	10:47:1
8	the Virginia Beach Police Department?	10:47:1
9	A. I would say 15 years.	10:47:1
10	MR. HUDSON: Okay. Thank you, sir.	10:47:3
11	THE COURT: All right. Thank you, Mr. Hudson.	10:47:4
12	May this witness be excused?	10:47:4
13	MS. KATCHMAR: Yes. Thank you.	10:47:5
14	THE COURT: All right. Thank you, Agent Thomas.	10:47:5
15	THE WITNESS: Thank you.	10:47:5
16	(Witness excused.)	10:47:5
17	THE COURT: All right. Now, the Court recognizes	10:48:0
18	that some of Agent Thomas' testimony is not specific to the	10:48:0
19	question of probable cause on these charges but went to the	10:48:1
20	issue of dangerousness to the community and the question of	10:48:1
21	detention.	10:48:2
22	But I want to stick with the probable cause evidence	10:48:2
23	first. If there is anything further, Mr. Hudson, do you have	10:48:2
24	any further proffer you wish to make on probable cause?	10:48:3
25	MR. HUDSON: No, sir.	10:48:3

1                   THE COURT: Ms. Katchmar, do you have any proffer           10:48:3  
2 you wish to make on probable cause?   10:48:4  
3                   MS. KATCHMAR: No, Your Honor. Thank you.                   10:48:4  
4                   THE COURT: Do you wish to argue the probable cause           10:48:4  
5 question?   10:48:5  
6                   MS. KATCHMAR: No. We will stand on the evidence.           10:48:5  
7 Thank you.   10:48:5  
8                   THE COURT: All right. Then based on the Court's           10:48:5  
9 review of the evidence, including the affidavit and the   10:48:5  
10 testimony of Agent Thomas and the exhibits that were   10:49:0  
11 proffered, the Court finds that there has been probable cause           10:49:0  
12 to establish the charges, specifically possession with intent           10:49:0  
13 to distribute cocaine and cocaine base charges, that that   10:49:1  
14 crime was committed and that the defendant committed that   10:49:2  
15 crime.   10:49:2  
16                   Certainly, the specific events of February the 19th,           10:49:2  
17 2014 and August the 10th of 2015, as relayed in the affidavit           10:49:3  
18 and as discussed by Agent Thomas, provides sufficient indicia           10:49:3  
19 that the defendant had been engaged in the sale of those   10:49:4  
20 drugs, along with the agent's testimony of the information                   10:49:4  
21 from the cooperating witness, so I will find probable cause.           10:49:5  
22                   Now, on the question of detention, the charge here           10:49:5  
23 is a charge under the Controlled Substances Act for which the           10:49:5  
24 maximum sentence is at least ten years.   10:50:0  
25                   So, Ms. Katchmar, I'll look to you first. If you                   10:50:0

1 have any factual proffer you wish to make to rebut the 10:50:1  
2 presumption of detention, because under 3142(f) there is a 10:50:1  
3 presumption so -- excuse me, (e), there is a presumption. 10:50:2  
4 So, if you have a factual proffer you wish to make, I'll be 10:50:3  
5 glad to hear it. 10:50:3

6 MS. KATCHMAR: Your Honor, this is where I always 10:50:3  
7 get a little confused so I look for a little bit of guidance 10:50:4  
8 from the Court. My proffer would have more to do with the 10:50:4  
9 facts in the pretrial report than it does to the allegations 10:50:4  
10 relating to Mr. Goffigan. So if the Court would like that 10:50:5  
11 simply an argument, I can. 10:50:5

12 Otherwise -- 10:50:5

13 THE COURT: Yes, that would be fine. What I -- 10:51:0

14 MS. KATCHMAR: My other proffer would be this, as it 10:51:0  
15 relates to the facts before the Court, if I may, in the 10:51:1  
16 affidavit and for probable cause. My proffer would be as 10:51:1  
17 follows: One, we have events that are over two years ago 10:51:2  
18 from today. There was at that time arrest. He was on bond. 10:51:2  
19 There was a significant period of time that followed. That 10:51:3  
20 case has not been resolved. It has now been nolle prossed in 10:51:3  
21 state court pursuant to a bond report in relation to charges 10:51:4  
22 being filed federally. 10:51:4

23 As it relates to the allegations from August 10th, 10:51:4  
24 2015, once Mr. Goffigan was shot, there is those -- the 10:51:5  
25 allegation is those drugs were found in his pocket when 10:52:0

1 clothes were seized while lifesaving events were taking 10:52:0  
2 place. What I would like to state to the Court is the 10:52:0  
3 following: that there was nothing before the Court that 10:52:1  
4 those clothes were, in fact, necessary and important for 10:52:1  
5 investigation. There is no forensic information stating that 10:52:2  
6 they were useful and that they were collected. They state 10:52:2  
7 that they were collected, in the paragraph that follows, for 10:52:3  
8 forensic and investigative purposes. 10:52:3

9                   There is nothing before that Court -- the Court 10:52:4  
10 stating that that was, in fact, done. The clothes then were 10:52:4  
11 taken, and we don't know the circumstances surrounding what 10:52:4  
12 was going on before the medical personnel showed up. There 10:52:5  
13 was several people in the area, we would assert, and there is 10:52:5  
14 also an allegation that there were some drugs involved. 10:52:5

15                   So we would say that the chain of custody regarding 10:53:0  
16 the drugs is at issue. Whether or not they could have even 10:53:0  
17 been seized and the clothing was seized is an issue, and 10:53:0  
18 whether or not the hospital personnel were acting under color 10:53:1  
19 of law enforcement when they handed that over. So we believe 10:53:1  
20 that it may, in fact, be an improper search. 10:53:1

21                   Based upon that, that would be our proffer relating 10:53:2  
22 to some of the facts that are contained in the affidavit. 10:53:2

23                   THE COURT: All right. 10:53:2

24                   MS. KATCHMAR: Everything else would be argument as 10:53:2  
25 it relates to his detention. 10:53:3

1                   THE COURT: Well, and I understand, so you're           10:53:3  
2 relying on some of the information in the pretrial services           10:53:3  
3 report --   10:53:4

4                   MS. KATCHMAR: Yes.   10:53:4

5                   THE COURT: -- with respect to, for instance, the           10:53:4  
6 defendant was a lifelong resident of the area. You mentioned           10:53:4  
7 in the first part of your proffer that he was on bond from           10:53:5  
8 the February 2014 charges.   10:54:0

9                   MS. KATCHMAR: Yes.   10:54:0

10                  THE COURT: But the Court has no information about           10:54:0  
11 what happened with respect to the charges that apparently           10:54:1  
12 were levied as a result of the August 2015 seizure of                   10:54:1  
13 narcotics when the defendant was shot. What I'm asking you           10:54:2  
14 about is, it looks like he was arrested on September 24th,           10:54:3  
15 and those charges were nolle prossed.                                   10:54:3

16                  MS. KATCHMAR: Correct.                                   10:54:4

17                  THE COURT: But where was he? Was he in the           10:54:5  
18 hospital? Was he released on bond? Was he in custody? I                   10:54:5  
19 have no information about that. Do you have any you wish to           10:54:5  
20 proffer?   10:55:0

21                  MS. KATCHMAR: I do. I believe that he had already           10:55:0  
22 gone home, and he had gone home and was at home, basically,           10:55:0  
23 convalescing. But let me refer that -- double-check that.           10:55:1

24                  And that's what I remember because, as an offer of           10:55:3  
25 proof we were talking about this, that here he was, he'd been           10:55:3

1 shot. He goes home. He's at home convalescing. People, 10:55:4  
2 they were wearing -- a huge SWAT team came, and he ended up 10:56:1  
3 being taken into custody with an allegation that it wasn't 10:56:2  
4 known exactly where he was yet. He was still on probation. 10:56:2  
5 He was still on bond. And he was reporting as required to 10:56:2  
6 probation at that time. So there was not an issue of him 10:56:3  
7 being a risk, being at -- or failing to appear anyway. 10:56:3

8 THE COURT: So which arrest was this, the September 10:56:4  
9 one? 10:56:5

10 MS. KATCHMAR: The September one was related to the 10:56:5  
11 drugs that were found in the pants. 10:57:0

12 THE COURT: And then he was subsequently bonded 10:57:0  
13 again? 10:57:1

14 MS. KATCHMAR: No, Your Honor. He has been in 10:57:1  
15 custody since September 24th, 2015. 10:57:1

16 THE COURT: That is what I'm trying to find out. 10:57:1

17 MS. KATCHMAR: My apologies. I'm not trying to 10:57:2  
18 elongate this in any way. 10:57:2

19 THE COURT: Too late. No. So just so I understand, 10:57:3  
20 because if he had been bonded out a second time -- 10:57:5

21 MS. KATCHMAR: He has not. 10:57:5

22 THE COURT: -- then the Court would obviously take 10:57:5  
23 that into consideration as to the question of dangerousness. 10:57:5

24 MS. KATCHMAR: Correct. 10:58:0

25 THE COURT: All right. 10:58:0

1 MS. KATCHMAR: No, he has been in custody since 10:58:0  
2 September 24th, 2015, and in the Virginia Beach jail. I 10:58:0  
3 would also proffer the people who are present here today, but 10:58:1  
4 then I would also provide some additional information from 10:58:1  
5 the bond report. 10:58:2

6 His mother, Mrs. Whorl, who is here, she's the young 10:58:2  
7 lady in the light blue shirt and the leather coat. His 10:58:3  
8 sister is behind her and to the left. She's in the black. 10:58:3  
9 And family friend, Takia Mentor, she's in the dark blue. 10:58:4  
10 Another family friend Janece Williams, she is sitting in the 10:59:0  
11 laced shirt. I sent Uncle Melvin out. He had Mr. Goffigan's 10:59:1  
12 small child, five months. So I felt it appropriate to send 10:59:2  
13 them out of the courtroom. And we have Tracy Shaw, 10:59:2  
14 Mr. Goffigan's long-time girlfriend. So with that, Your 10:59:3  
15 Honor, I can either move into my argument for rebuttal of the 10:59:3  
16 presumption or I can sit down. 10:59:4

17 THE COURT: Why don't you have a seat. 10:59:4

18 MS. KATCHMAR: Thank you. 10:59:4

19 THE COURT: I'll hear from Mr. Hudson about any 10:59:4  
20 factual proffer now the Government wishes to make. 10:59:4

21 MR. HUDSON: Well, sir, of course, the Government 10:59:5  
22 would ask the Court to consider the report prepared by 10:59:5  
23 probation in addition to what Detective Thomas, to his 10:59:5  
24 testimony just a few minutes ago. 11:00:0

25 The only other things I would offer the Court in the 11:00:0

1 way of facts that might be somewhat responsive to the 11:00:1  
2 concerns the defense brought up, as to the August 2015 11:00:1  
3 incident, the clothes being cut off the defendant, that was 11:00:2  
4 witnessed by law enforcement. That happening was witnessed 11:00:3  
5 by law enforcement, and there are hospital witnesses as well 11:00:3  
6 who saw that happen. These were bloody clothes from someone 11:00:4  
7 who had just been shot. 11:01:0

8           Those were maintained, as it says in the affidavit, 11:01:0  
9 and eventually turned over to a forensics technician. The 11:01:1  
10 blood was swabbed on there. I do believe it was submitted to 11:01:1  
11 the Department of Forensic Science. So it was used to 11:01:1  
12 further the shooting investigation. There was an arrest made 11:01:2  
13 in the shooting investigation. 11:01:2

14           The defendant was questioned in late September of 11:01:3  
15 '15 regarding the shooting incident. Now, at that point, of 11:01:3  
16 course, they knew they had found crack cocaine in the pants 11:01:4  
17 in question. So they did -- the police did Mirandize him. 11:01:4  
18 But the purpose of the interview was really to talk to him 11:01:5  
19 about the shooting. 11:01:5

20           They obtained information regarding who the shooter 11:01:5  
21 was, and, indeed, the shooter had been arrested. 11:02:0  
22 Interestingly, I will note for the Court when it came time 11:02:0  
23 for the defendant to testify against the shooter, he 11:02:1  
24 declined, and a number of the shooter's charges have been 11:02:4  
25 nolle prosequi as a result of that. 11:02:5

1           But there was an investigation into the shooting,           11:03:5  
2 rather extensive. One canvassed the neighborhood, speak to           11:04:0  
3 witnesses, that sort of thing. This was not -- the cutting           11:04:1  
4 of the pants off the defendant and turning it over to a           11:04:1  
5 forensics technician, this was not something that was, you           11:04:2  
6 know, just done to try to get a free search, if that's the           11:04:3  
7 defense's concern.   11:04:3

8           THE COURT: Why was the defendant shot?                   11:04:4

9           MR. HUDSON: So the defendant claims that he knew           11:04:4  
10 his shooter but that they had never had trouble before. I           11:04:5  
11 will note for the Court that when the shooter was found by           11:05:0  
12 police, he had not only the gun that matched the description           11:05:0  
13 of the gun everyone gave, including the defendant, and the           11:05:1  
14 description of the face mask that everyone gave, too, he also           11:05:1  
15 had drugs with him. So the belief is that it is a                   11:05:1  
16 drug-related shooting.   11:05:2

17           MS. KATCHMAR: I would object. That is purely           11:05:2  
18 speculation, sir.   11:05:2

19           THE COURT: Well, hold on a second.                   11:05:3

20           MR. HUDSON: Yes, sir.                           11:05:3

21           THE COURT: I'm asking for a factual proffer --           11:05:3

22           MR. HUDSON: Yes, sir.                           11:05:4

23           THE COURT: -- as to the circumstances surrounding           11:05:4  
24 what appears to be an extraordinarily violate event involving           11:05:4  
25 this defendant. If you have information, I'd like to hear           11:05:4

1 it. Now, if the police have a theory, and it's just a 11:05:5  
2 theory, I can hear that, too. But I'll take it for what it's 11:05:5  
3 worth because, obviously, apparently there is no prosecution, 11:06:0  
4 at least now, on it. But, you know, I'm looking at -- you 11:06:0  
5 all know what questions I'm looking at. 11:06:1

6 MR. HUDSON: Yes, sir. 11:06:1

7 THE COURT: Not the least of which is danger to the 11:06:1  
8 community, and the risk of danger posed by the defendant's 11:06:1  
9 release. I have a defendant who has been shot. 11:06:2

10 MR. HUDSON: Yes, sir. 11:06:3

11 THE COURT: Obviously, I'm interested in that to 11:06:3  
12 determine whether or not the fact that he was shot once 11:06:3  
13 presents a risk. Perhaps it could happen again. So I'm 11:06:4  
14 asking for information. 11:06:4

15 MR. HUDSON: Yes, sir. 11:06:4

16 THE COURT: If you have it, great. If the police 11:06:4  
17 have a working theory, and all it is is a theory, that's 11:06:5  
18 okay. I'll take it for what it's worth. But I need to 11:06:5  
19 evaluate -- 11:07:0

20 MR. HUDSON: Yes, sir. 11:07:0

21 THE COURT: -- what risks there are in considering 11:07:0  
22 the defendant's release. 11:07:0

23 MR. HUDSON: So what I just offered the Court, I 11:07:0  
24 suppose, could be characterized as a theory, but here is what 11:07:1  
25 it's based on. It's based on what was recovered from the 11:07:1

1 shooter when he was arrested by police. It is based on the 11:07:2  
2 police's knowledge of both this defendant's background as 11:07:2  
3 well as the shooter's background. The police have 11:07:3  
4 information that the shooter is involved in a gang, I'm told, 11:07:4  
5 and that this was -- I don't know how much detail the Court 11:07:4  
6 wants me to go into as to how witnesses say the shooting 11:07:4  
7 occurred. 11:08:0

8 THE COURT: Well, that's enough, Mr. Hudson. I 11:08:0  
9 understand what the Government's operating theory is. It was 11:08:0  
10 the Government's belief that it was a drug-related conflict? 11:08:1

11 MR. HUDSON: Yes, sir, based on -- yes. Yes, sir. 11:08:1

12 THE COURT: All right. In other words, he wasn't in 11:08:1  
13 a 7-Eleven and somebody came in to rob it and he was the -- 11:08:1

14 MR. HUDSON: No, sir. 11:08:3

15 THE COURT: -- and the victim standing there who got 11:08:3  
16 shot by an aggressive robber? 11:08:4

17 MR. HUDSON: It was car comes into the neighborhood, 11:08:4  
18 shooter gets out, shoots defendant, quickly gets back in car, 11:08:4  
19 leaves neighborhood. That's how it occurred, sir. 11:08:5

20 THE COURT: All right. 11:08:5

21 MR. HUDSON: Other than that, I have only argument. 11:08:5

22 THE COURT: All right. Well, don't sit down. 11:09:0

23 MR. HUDSON: Yes, sir. Of course. I'm sorry. 11:09:1

24 THE COURT: Let me hear your argument. Go ahead. 11:09:1  
25 Let me hear your argument. 11:09:1

1                   MR. HUDSON: Yes, sir. Of course. Okay. Well,                   11:09:2  
2 there are a number of reasons why the defendant should be                   11:09:2  
3 detained pending trial. Of course, start with the                   11:09:2  
4 presumption. Second, the defendant has a terrible criminal                   11:09:2  
5 history, as the Court can see from the pretrial services                   11:09:3  
6 report. He's an eight-time felon. All except one of those                   11:09:3  
7 are drug trafficking felonies.                   11:09:3

8                   The Government anticipates that as such he will                   11:09:4  
9 qualify as a career offender for sentencing guidelines                   11:09:4  
10 purposes, and with a rap sheet that goes back to 1999 as an                   11:09:4  
11 adult. And the Court can see from the pretrial services                   11:09:5  
12 report, it goes back even further than that, actually, prior                   11:09:5  
13 to him being an adult. It just is not unfair at all to                   11:09:5  
14 characterize this defendant as a career offender.                   11:10:2

15                   On the offensive reasoning before the Court today,                   11:10:3  
16 he ran from law enforcement that evening, and he evaded                   11:10:3  
17 capture for nearly two months on state drug charges stemming                   11:10:4  
18 from that event. His criminal record is riddled with                   11:10:5  
19 offenses like failure to appear, he has several of those;                   11:12:0  
20 refusal to identify himself to law enforcement; resisting                   11:12:0  
21 arrest; and a number of show causes.                   11:12:1

22                   So in terms of not running from law enforcement,                   11:12:1  
23 showing up to court, following the Court's orders, this                   11:12:2  
24 defendant has shown over and over again consistently that he                   11:12:3  
25 doesn't do so well with those things. And now he's facing 20                   11:12:3

1 years in prison and career offender status, the government 11:12:4  
2 does not believe that that will increase the chances that he 11:12:4  
3 will show up for court and follow this Court's other orders, 11:12:5  
4 which, of course, as the Court knows, following the Court's 11:12:5  
5 orders is a key part of whether bond is appropriate under the 11:12:5  
6 Bail Reform Act of 1984. 11:13:0

7 As to danger to the community, of course, it's in 11:13:0  
8 the pretrial services report that the defendant has lived in 11:13:1  
9 this area his whole life, has lots of family and friends 11:13:2  
10 here, but the problem is that he's also been running afoul of 11:13:2  
11 the law in this community as an adult since 1999. 11:13:3

12 His convictions, in addition to the drug trafficking 11:13:3  
13 felonies, the numerous drug trafficking felonies, include 11:13:3  
14 assault and battery, and I would note that there is -- those 11:13:4  
15 are seven different offense dates, maybe two sentencing 11:13:4  
16 events for the seven drug felonies, but it is separate 11:13:5  
17 offense dates for each one. So we are now on drug dealing 11:13:5  
18 incident number eight here today. 11:13:5

19 In February 2013 the defendant was given a suspended 11:14:0  
20 sentence on five of the drug trafficking felonies. Less than 11:14:0  
21 a year later, January 2004, still on probation, still under a 11:14:1  
22 suspended sentence, he's arrested again for a drug 11:14:1  
23 trafficking felony. And despite the circumstances, he's let 11:14:2  
24 out on bond and a month later, in February 2004, now under 11:14:2  
25 probation, now under a suspended sentence and on bond, too, 11:14:3

1 he's arrested for another drug trafficking felony. This time 11:14:3  
2 when he's sentenced for those offenses in 2005, I believe the 11:14:3  
3 pretrial services report indicates that he got a total of six 11:14:4  
4 years in the state penitentiary. By my rough calculation, I 11:14:4  
5 guess that means he got out of the penitentiary in about 2012 11:14:5  
6 or 2011, and he is caught trafficking in crack cocaine again. 11:14:5  
7 Again we are on charge number eight. In February of 2014, 11:15:0  
8 the Court heard evidence today that one of the witnesses we 11:15:1  
9 have is able to place this defendant selling crack cocaine 11:15:1  
10 back into 2012. 11:15:2

11 So, in short, he is re-offending, and, of course, on 11:15:2  
12 this 2014 incident, this February 2014 incident, he runs from 11:15:3  
13 police and isn't apprehended for two months. When he was 11:15:3  
14 apprehended in April of '14, he was given bond, and the 11:15:4  
15 Government would point out that just as he had done every 11:15:4  
16 time before, in both the 2003 and the 2005 drug dealing 11:15:4  
17 arrests, he fails to live up to the bond that the state court 11:15:5  
18 placed him on. He's caught dealing crack cocaine again 11:15:5  
19 leading to his September 2015 arrest. 11:16:0

20 Now, if the years in the penitentiary didn't 11:16:0  
21 dissuade him from selling drugs, the prior bonds he was given 11:16:1  
22 obviously didn't dissuade him from selling drugs, and the 11:16:1  
23 Government is just very doubtful that any combination of bond 11:16:2  
24 conditions would dissuade him from continuing to sell drugs 11:16:2  
25 now. 11:16:2

1                   He's shown through his own conduct consistently that 11:16:3  
2 when it comes to selling drugs, he is a consistent and 11:16:3  
3 ongoing danger to the community, and the Government would 11:16:3  
4 respectfully submit that there doesn't appear to be a reason 11:16:4  
5 that giving him a third chance today would bring about 11:16:4  
6 different results than in the past. I say a third chance 11:16:4  
7 based on the fact he was arrested in 2014, given a bond in 11:16:5  
8 2014, and he's found with crack again in 2015. 11:17:0

9                   So he's already been given some chances before, and, 11:17:0  
10 of course, his prior incidents, as well, he's been caught 11:17:1  
11 selling drugs while out on bond. As the Court noted, the 11:17:1  
12 complaint does not represent everything the defendant could 11:17:2  
13 be charged with. As was indicated in the testimony today, of 11:17:2  
14 course, the trafficking of drugs goes as far back as 2012. 11:17:3  
15 He's been seen in possession of two kilograms of cocaine, as 11:17:3  
16 well as guns, as well as a picture of a gun on his phone, as 11:17:3  
17 well as large sums of cash consistent with what the 11:17:4  
18 cooperating witness told Detective Thomas. 11:17:4

19                   And one other point of corroboration I would offer, 11:17:5  
20 while I'm thinking of it, on that cooperating witness, the 11:17:5  
21 Government elicited testimony from a Detective Thomas that 11:18:0  
22 this cooperating witness indicated that he not only was a 11:18:1  
23 drug user but that he became involved in selling crack 11:18:1  
24 cocaine with this defendant. He made statements against his 11:18:2  
25 penal interest, and I would submit to the Court that he was 11:18:2

1 quite forthcoming with the detective, and that does go to his 11:18:2  
2 credibility and that that weighs in his favor when it comes 11:18:3  
3 to his credibility. He is making statements against his 11:18:3  
4 penal interest and being open and honest with the detective. 11:18:4

5 The other thing I'll mention, and I believe it's 11:18:4  
6 mentioned in the affidavit anyway, after the August of 2015 11:18:5  
7 incident, the shooting incident, a personal friend of the 11:18:5  
8 defendant did tell police, yes, I'm a drug dealer. 11:19:1

9 I will end it this. The Government has what I 11:19:2  
10 believe is ten good reasons to detain this defendant: Number 11:19:3  
11 one, I would submit to the Court that the evidence is strong. 11:19:3  
12 We've got drugs on the table. This is not a historical case. 11:19:4  
13 Number two, we've got law enforcement witnesses on both the 11:19:4  
14 February of '14 and the August of '15 incident. Number 11:19:5  
15 three, we've got a presumption against bond. Number four, 11:19:5  
16 even if we didn't have the presumption, for the reasons the 11:20:0  
17 government has explained, this defendant poses a substantial 11:20:0  
18 risk of nonappearance and a danger to the community. Number 11:20:1  
19 five, he's an eight-time felon, seven of them drug 11:20:1  
20 trafficking felonies. Six, history of failure to appear. 11:20:2  
21 Seven, history of failing to abide by Court orders. Eight, 11:20:2  
22 history of breaching bond conditions. Nine, the probation is 11:20:3  
23 recommending detention. Ten, that probation did not find the 11:20:3  
24 two possible third-party custodians to be suitable. 11:20:3

25 And number eleven, I'll add, as the Court pointed 11:20:4

1 out, this is a defendant who at a minimum has drawn violence, 11:21:2  
2 and we believe on a drug-related incident in the 2015 -- in 11:21:2  
3 the August of 2015 instance or been involved in a 11:21:3  
4 drug-related shooting, the Government believes. We recognize 11:21:4  
5 it was on the victim side of things, but, still, it's 11:21:4  
6 generated violence. 11:21:5

7 So in summary, got a lot of past conduct with crime 11:21:5  
8 shows that this is the type of defendant who can't be trusted 11:22:0  
9 to abide by a Court's order, whether it's bond, whether it's 11:22:1  
10 probation, whether it's a suspended sentence, and for any of 11:22:1  
11 those reasons alone, but definitely for all of them combined, 11:22:2  
12 the Government would ask the Court to keep this defendant 11:22:2  
13 detained pending his trial. 11:22:2

14 THE COURT: All right. Thank you, Mr. Hudson. 11:22:3

15 MR. HUDSON: Yes, sir. 11:22:3

16 THE COURT: Ms. Katchmar, your turn. 11:22:3

17 MS. KATCHMAR: Thank you. Understanding that I may 11:22:3  
18 be swimming a little bit upstream, Your Honor, I still 11:22:3  
19 believe that we can put forth conditions or a combination of 11:22:4  
20 conditions that will reasonably assure his appearance and 11:22:5  
21 allay some of the Court's concerns regarding danger to the 11:22:5  
22 community. We understand that that is probably foremost the 11:23:0  
23 Court's concern along with the presumption. We would first 11:23:0  
24 note that the number of felonies that the Government alleges 11:23:4  
25 were not in eight separate instances but they were in 11:23:4

1 combined events where several charges were put forth. 11:23:4

2 So we actually have a 2002 to -- excuse me, 2003 -- 11:23:5

3 that's right, 2003, 2001 and a 2005 event which leads to all 11:24:0

4 of these events as it relates to drug-related convictions, 11:24:0

5 Your Honor. 11:24:1

6 He is on supervision for at least, I believe all of 11:24:1

7 those items still, based upon the pretrial report. Your 11:24:2

8 Honor, he is, as the Court has pointed out, as you know, the 11:24:2

9 defense will point out, that he is, in fact, presumed 11:24:2

10 innocent constitutionally, that the presumption is a 11:24:3

11 statutory creation by the Bail Reform Act, and that he is a 11:24:4

12 lifelong resident of this area. 11:25:0

13 Not only does his mother live in the house where it 11:25:0

14 was -- where she was deemed not to be an appropriate 11:25:2

15 third-party custodian, based upon her criminal convictions, 11:25:2

16 there is nothing indicating that she is failing to follow the 11:25:3

17 rules of the Court or that she would refuse to follow the 11:25:3

18 rules of this Court if she were a third-party custodian. And 11:25:3

19 she is present in here today. 11:25:4

20 She also lives there with Teisha Goffigan, who I've 11:25:5

21 already pointed out, the sister of Mr. Goffigan. She is -- I 11:25:5

22 believe she works for an asphalt and concrete company as a 11:26:0

23 foreperson, and she also actually is an R.N., if I'm not 11:26:1

24 mistaken, registered nurse also but not by trade now. Their 11:26:2

25 home is a family home. It's owned. It's in an area that can 11:26:2

1 be looked into. 11:26:3

2                   What I would point out is that there is the shooting 11:26:3  
3 in August 2015, which we understand is of concern to the 11:26:3  
4 Court, that it drew violence, but we don't have anything 11:26:3  
5 before or after suggesting otherwise -- excuse me, suggesting 11:26:4  
6 this violence. We have a situation where he was at his home. 11:26:5  
7 He was easily found. 11:26:5

8                   If the house had been searched and drugs and drug 11:27:0  
9 paraphernalia and drug trafficking items had been found in 11:27:0  
10 September -- on September 24th, 2015 when he had been 11:27:1  
11 arrested, I assure you that would be before the Court. It's 11:27:1  
12 not. 11:27:1

13                  Your Honor, he has never been charged federally. I 11:27:2  
14 do believe federal is different. The penalties are 11:27:2  
15 different. People know you just can't run from the Federal 11:27:2  
16 Government. It's everywhere. 11:27:3

17                  So I do believe that there are a series of 11:27:3  
18 conditions. He is not working, so there is no reason why he 11:27:4  
19 shouldn't be at his home at all times. The family is willing 11:27:4  
20 to do electronic monitoring and whatever other monitoring GPS 11:27:4  
21 that the Court deems appropriate. 11:27:4

22                  He still needs medical care. He's, as the report 11:27:5  
23 indicates, he's still suffering side effects from that. He 11:27:5  
24 is still on probation. He would have to follow those terms 11:28:0  
25 and conditions along with the pretrial officer. There is no 11:28:0

1 substance abuse history. It sets that there was back way 11:28:1  
2 early up to 2000, but we are 16 years from that, so there is 11:28:2  
3 no history of that. 11:28:2

4 No mental health history whatsoever. So in terms of 11:28:3  
5 any of that, those services would not be needed. Would he 11:28:3  
6 have to go and look for a job, we would assert that is 11:28:4  
7 probably a good idea for him, but also seeking the medical 11:28:4  
8 care is also a good idea. 11:28:4

9 Your Honor, the family is here. There is nothing to 11:28:4  
10 show that they don't follow the terms and conditions. 11:28:5

11 Mr. Goffigan is very aware, based upon his conversations with 11:28:5  
12 counsel and hearing Mr. Hudson, what potential consequences 11:28:5  
13 he could face and is potentially facing. But that alone is 11:29:0  
14 not enough to create a presumption that he should be 11:29:0  
15 incarcerated. We understand that the state kept him in 11:29:0  
16 custody but the state has different resources. 11:29:1

17 THE COURT: The presumption is created by statute. 11:29:1  
18 It's not created by the underlying facts. 11:29:1

19 MS. KATCHMAR: Understood. It's based upon the 11:29:2  
20 nature of the charge that he's facing and the potential 11:29:2  
21 penalty that he could face from that charge, and we 11:29:3  
22 understand that, Your Honor. But that alone, that 11:29:4  
23 presumption can be rebutted by reasonable, reliable 11:29:4  
24 information, even a scintilla of which the defense has 11:29:4  
25 presented. So we would assert that based upon the 11:30:0

1 information we have provided, that combination of conditions 11:30:0  
2 that could reasonably ascertain his appearance here in court, 11:30:0  
3 that we request the Court to release him on the GPS, on the 11:30:1  
4 home monitoring to the address where he's lived predominant 11:30:1  
5 and all of his life since 1980, and that any other terms and 11:30:2  
6 conditions the Court deems appropriate, he will such follow. 11:30:4  
7 Thank you. 11:30:4

8 THE COURT: Thank you, Ms. Katchmar. 11:30:4

9 All right. Well, as the Court has hopefully made 11:30:5  
10 clear, that the purpose of this proceeding is certainly not 11:30:5  
11 to adjudge guilt or innocence of the defendant, but, rather, 11:30:5  
12 to determine whether there is any condition or combination of 11:31:0  
13 conditions that the Court could impose that would assure his 11:31:0  
14 appearance at trial and protect the community. 11:31:0

15 The statute under which he was charged makes this a 11:31:1  
16 presumption case. By that it means that Congress has 11:31:1  
17 presumed that people charged with this statute should be 11:31:1  
18 detained because there are no conditions the Court can 11:31:2  
19 impose, but that presumption can be rebutted. 11:31:2

20 The defendant has proffered, to rebut that 11:31:2  
21 presumption, the fact that his criminal conviction history, 11:31:3  
22 let's just say is overstated because it involved less 11:31:3  
23 incidents that the Government, in their argument, has 11:31:4  
24 separated out. 11:31:4

25 They have proffered that the defendant abided, 11:31:4

1 theoretically, to an extent his probation. He didn't flee 11:31:5  
2 the jurisdiction when he was placed on probation in April of 11:31:5  
3 2014, although the Government notes that when he was arrested 11:32:0  
4 in 2015, it was because of drugs that were found on him 11:32:0  
5 following his incident where he had been shot. 11:32:1

6 The defendant has proffered conditions that could be 11:32:1  
7 imposed remanding him to his mother as third-party custodian 11:32:1  
8 in the home in which she lives with her daughter, the 11:32:2  
9 defendant's sister. The problem is probation has made it, 11:32:2  
10 not binding on the Court, but the probation has found that 11:32:3  
11 the defendant's mother would not be a suitable custodian and 11:32:3  
12 the home would not be a suitable location. And under these 11:32:4  
13 circumstances, the Court is compelled to find that the 11:32:4  
14 presumption has not been rebutted, that the nature of this 11:32:5  
15 offense and the meager assurances the Court can have that the 11:32:5  
16 defendant would abide by any conditions the Court could 11:33:0  
17 impose is just not sufficient to rebut the presumption. 11:33:0

18 In looking at the factors, these are very serious 11:33:1  
19 charges. The weight of the evidence is significant. The 11:33:1  
20 defendant's criminal record is, regardless of whether the 11:33:1  
21 convictions are aggravated or not, is extensive, and it 11:33:2  
22 involves similar offenses, and it involves offenses while the 11:33:2  
23 defendant was either on probation or otherwise on supervision 11:33:3  
24 or, in the case of the most resent ones, while he was on 11:33:3  
25 bond. There are a number of failures to appear. There are a 11:33:3

1 number of convictions for failure to be of good behavior. So 11:33:4  
2 that tells the Court the defendant is not likely to follow 11:33:4  
3 conditions or combinations of conditions. 11:33:4

4 Finally, because of the nature of these charges, the 11:33:4  
5 shooting that happened in August of this past year, the 11:33:5  
6 danger to the community posed by the defendant's release is 11:33:5  
7 substantial. So I'm going to grant the Government's motion 11:33:5  
8 for detention. I'm going to issue a written order outlining 11:34:0  
9 the basis therefor. And unless there is anything further -- 11:34:0

10 MR. HUDSON: There is one further thing, Your Honor. 11:34:2  
11 Ms. Katchmar and I have both signed an order for discovery. 11:34:3  
12 We would ask the Court to consider that and consider entering 11:34:4  
13 it. 11:34:4

14 MS. KATCHMAR: That is correct, Your Honor. Thank 11:34:4  
15 you. 11:34:4

16 THE COURT: All right. 11:34:5

17 MS. KATCHMAR: And nothing further from the 11:35:0  
18 defendant. 11:35:0

19 THE COURT: All right. The order has been signed by 11:35:0  
20 the parties, so I will enter that. 11:35:1

21 MR. HUDSON: Thank you, sir. 11:35:1

22 THE COURT: And as part of my order, I will also 11:35:2  
23 formalize the probable cause finding. All right. 11:35:3

24 MS. KATCHMAR: Thank you. 11:35:3

25 THE COURT: All right. Thank you, ladies and 11:35:3

1 gentlemen. The Court will stand in recess. 11:35:3

2 (Hearing adjourned at 11:12 a.m.) 11:35:3

3 CERTIFICATION

4

5 I certify that the foregoing is a correct  
6 transcript, to the best of my ability, of the court's audio  
7 recording of proceedings in the above-entitled matter.

8

9 X \_\_\_\_\_ /s/ \_\_\_\_\_ x

10 Jody A. Stewart

11 X \_\_\_\_\_ 5-24-2016 \_\_\_\_\_ x

12 Date

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